

Vote No on SB 347.

SB 347 allows mining companies WITHOUT water rights to dry up Montana's streams and rivers – and to do so without consideration to how it affects water right owners.

1.) SB 347 repeals the only protection existing water users have against massive new water withdrawals that are exempt from the water rights process.

- SB 347 **eliminates** current rules under the Montana Water Quality Act (“WQA”) that prohibit anyone other than a water rights holder from decreasing the flow of a stream by more than 10 percent at low flows, unless they receive authorization to degrade the stream. (ARM §17.30.715(2)(a))
- The WQA’s provisions do not apply to interests with valid water rights, because under Montana’s water use law already cannot harm existing users senior in priority. (MCA §75-5-317(2)(s))
- Under SB 347, corporations and individuals who are exempt from having to obtain water rights to dewater streams **will NOT have to mitigate their impact on existing users.**

2.) Existing water rights holders – as well as Montana’s streams – are at risk from new, large-scale water withdrawals that are **exempt** from having to obtain water rights. For example:

- A rancher in central Montana was deprived of water when the Kendall Mine withdrew up to 20-30 million gallons of water per year from the upstream aquifer. DNRC ruled this activity did not require a water right – even though it effectively dried up the creek where the rancher had senior water rights. This bill would allow the mine to go one step further: not only do they not need a water right, they would be legally allowed to dry up a stream without mitigating water quality impacts.
- In the Cabinet Mountains of northwest Montana, the state predicts that groundwater pumping from proposed mines will deplete flows in surface streams by as much as 97% during the low flow season. The impacts are expected to last for centuries, threatening fish and wildlife. Moreover, since the water will be discharged to another basin, it will reduce the amount of water available to downstream water users.

3.) Large mines are being considered in local headwaters, and irrigators along the already heavily used Smith and Blackfoot rivers will face the threat of substantial un-permitted withdrawal of water from new mines that could severely deplete streamflows.

- Recreational fisheries valued in the millions on the Smith and Blackfoot Rivers, where Montana FWP holds existing instream flow water rights, could be jeopardized by large withdrawals of groundwater that is crucial for replenishing these streams.
- If SB 347 passes, the only recourse irrigators and other water right holders have is to sue mining companies for damages, but they can only do this after the water has been taken – provided they have the time and money to hire attorneys.
- The Legislature should require all activities that withdraw water from groundwater and connected rivers, and streams obtain a valid water right and demonstrate they will not harm existing water rights – with no exceptions.